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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

16 Cr. 522 (RJS)

5 PASQUALE PARRELLO,

6 Defendant.

Sentencing

7 -----x

8 New York, N.Y.
9 September 7, 2017
10:33 a.m.

10 Before:

11 HON. RICHARD J. SULLIVAN,

12 District Judge

13
14 APPEARANCES

15 JOON H. KIM
16 Acting United States Attorney for the
17 Southern District of New York
18 BY: JESSICA R. LONERGAN
ABIGAIL S. KURLAND
JONATHAN REBOLD
Assistant United States Attorneys

19 MARK S. DeMARCO, ESQ.
20 Attorney for Defendant

21 KEVIN B. FAGA, ESQ.
22 Attorney for Defendant

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(Case called)

THE COURT: Okay. Have a seat. Thank you.

All right. Good morning. Let me take appearances from counsel. For the government?

MS. LONERGAN: For the government, Jessica Lonergan, Abigail Kurland, and Jonathan Rebold. Good morning, your Honor.

THE COURT: Good morning to each of you.

And for the defendant?

MR. DeMARCO: Good morning, your Honor. Mark DeMarco and Kevin Faga for Mr. Parrello.

THE COURT: Good morning, Mr. DeMarco, Mr. Faga, and Mr. Parrello, good morning to you.

THE DEFENDANT: Good morning, Judge.

THE COURT: And we have a lot of people here, friends and relatives, so thank you for being here. Many of you wrote letters to the Court, which I read, so thank you for doing that also. I read all the letters, and it's helpful to get letters like the ones that you wrote that give me insights into a person that I've never really met. I've seen Mr. Parrello a few times in court, but I can't claim to know him. So thank you for doing that, and thank you for being here today. I'm sure your presence means a great deal to him.

Mr. Parrello, are you hearing okay?

THE DEFENDANT: No. I have a little trouble hearing,

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1 so I have to push the ear a little bit this way so I can hear
2 you.

3 THE COURT: All right. If you're having any
4 difficulty, let me know. I'm going to try to make sure I speak
5 into the microphone.

6 THE DEFENDANT: Yes.

7 THE COURT: The acoustics are challenging in here even
8 under the best of circumstances. But if you're having
9 difficulty, let me know.

10 THE DEFENDANT: Yes. Thank you, your Honor.

11 THE COURT: And I'll make sure the lawyers also speak
12 into the microphones, both for your benefit and the benefit of
13 people who are here, because this is a public courtroom.
14 Everybody's welcome here. That's the way we do things here in
15 the United States. We have open proceedings that anyone from
16 the public can walk in and watch. We take it all down with a
17 court reporter and transcribe it so that these proceedings are
18 completely transparent. And it works better if people can
19 understand what's being said.

20 So, all right. We're here for sentencing.
21 Mr. Parrello pled guilty before the magistrate judge, before
22 Magistrate Judge Netburn. And so I accepted the guilty plea a
23 few weeks after that, but I wasn't here for that plea. I
24 usually take my own pleas, but I think we were in such a rush
25 to get pleas done because of an offer by the government that

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1 required about 40 defendants to plead guilty within a two-week
2 span that it was necessary to have some done by the magistrate
3 judges, and so that's what happened here.

4 I want to go over with you what I have reviewed in
5 connection with sentencing, and if I've left anything out, of
6 course, let me know.

7 So first of all, I've reviewed the transcript of the
8 guilty plea that was before Judge Netburn. That took place on
9 May 15th.

10 I have reviewed the presentence report prepared by the
11 probation department. That report is dated August 3rd. It's
12 a 40-page report that includes a sentencing recommendation.

13 I've reviewed Mr. DeMarco's and Mr. Faga's sentencing
14 submission. It's a very thorough submission. Let me just tell
15 you the exact number of pages, for the record. It is 13 pages,
16 single spaced, with attachments that go for another 50 pages or
17 so, including dozens and dozens of letters, as I mentioned, and
18 some other things, including doctor's reports and things. So
19 I've reviewed all of that.

20 I've also reviewed the supplement dated August 28th
21 prepared by Mr. DeMarco. That's a one-page, one-sentence
22 letter that also then attaches several additional letters from
23 friends and family members -- friends, I think, primarily.

24 I then have the government's sentencing submission
25 dated August 31st. That submission is 14 pages, single

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1 spaced.

2 I then received just yesterday a letter. I always ask
3 that the letters from friends and family members be sent to the
4 lawyer, to Mr. DeMarco or Mr. Faga to be then included in their
5 submission. That way I don't miss anything. I got a letter
6 yesterday addressed to chambers. So it's a letter from Anthony
7 Cerasuolo, I'm not sure if I'm pronouncing that right.
8 C-E-R-A-S-U-O-L-O. It's a two-page letter. Have you had a
9 chance to see that?

10 MR. DeMARCO: No, your Honor. May I?

11 THE COURT: All right. I'll give it to you just so
12 you can see it, each of you. It's relatively short. I was
13 going to docket it yesterday, but I got it late in the day. I
14 highlighted one portion or so, but it doesn't matter.

15 (Counsel reviewing letter)

16 THE COURT: And let Mr. Parrello read it as well.

17 (Defendant and counsel reviewing letter)

18 MR. DeMARCO: Thank you, your Honor.

19 THE COURT: Okay. I will docket that later today, but
20 I wanted to make sure you had a chance to see it before we
21 proceed.

22 MR. DeMARCO: Thank you.

23 THE COURT: Okay. In addition to those materials, I
24 also have reviewed the consent preliminary order of forfeiture
25 and money judgment that was executed by the parties I think

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1 right before the guilty plea, and so that calls for forfeiture
2 in the amount of \$63,800.

3 And then I've also reviewed the sentencing materials
4 from the 2001 case involving Mr. Parrello. That was another
5 45- or 46-defendant case. Mr. Parrello again was the lead
6 defendant, the first name in the indictment. In that case, it
7 was a case that resulted in a sentencing by Judge Carter of 88
8 months. And so I reviewed, among other things, the sentencing
9 transcript from that proceeding, the guilty plea transcript,
10 and other items on the docket related to sentencing.

11 Okay. So that's what I've reviewed. Is there
12 anything I've overlooked, anything I've neglected to mention
13 that the parties believe should be before me? Ms. Lonergan?

14 MS. LONERGAN: Not from the government, your Honor.

15 THE COURT: Mr. DeMarco?

16 MR. DeMARCO: No, your Honor.

17 THE COURT: Okay. All right. Well, let's begin with
18 the presentence report. Mr. DeMarco, you received a copy of
19 the presentence report and reviewed it with Mr. Parrello?

20 MR. DeMARCO: Yes.

21 THE COURT: Do you have any objections to what's in
22 the presentence report?

23 MR. DeMARCO: No, your Honor.

24 THE COURT: Okay. Ms. Lonergan, you've also received
25 a copy of the presentence report?

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1 MS. LONERGAN: Yes, your Honor.

2 THE COURT: Do you have any objections to what's in
3 the presentence report?

4 MS. LONERGAN: No, your Honor.

5 THE COURT: Okay. So Mr. Parrello, let me remind you
6 of what Judge Netburn told you when you pled guilty. There are
7 a number of factors that a judge like me has to consider when
8 deciding what sentence to impose in a case, and one of those
9 factors is something called the United States Sentencing
10 Guidelines, and you're familiar with the guidelines, are you,
11 Mr. Parrello?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Yeah. So for those of you who may not be,
14 the Sentencing Guidelines are a big book, and this is a book
15 that's put out by a commission. It's called the United States
16 Sentencing Commission. It's a commission that consists of some
17 judges and some lawyers and some experts in the field of
18 criminal law. And the way it works is that every crime or type
19 of crime is covered by a chapter in this book. And so it's a
20 long book. It's like 5 or 600 pages long. But for every crime
21 there's a chapter, and the judge in a particular case is
22 instructed to go to that chapter, and once in that chapter, the
23 judge is directed to make certain findings, findings of fact.
24 And those findings will then be calculated in terms of a
25 number. You'll get a numerical number, and the judge then adds

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1 points and in some cases subtracts points, and ultimately the
2 judge comes up with a number that is called the offense level.
3 The judge then goes to another chapter in this book, and that's
4 the chapter that relates to criminal history. And not
5 surprisingly, people who have been convicted of crimes and who
6 have served lengthy jail terms, they typically will be treated
7 more harshly than people who have no prior convictions. And so
8 the judge goes to the chapter relating to criminal history and
9 the judge makes findings as to whether there were prior
10 convictions and, if so, when they were, and for how long the
11 sentence was, if it involved a term of incarceration. And
12 based on the answers to those questions, the judge assigns
13 points and comes up with another number. That number is
14 referred to as the criminal history category. There are six
15 criminal history categories. Category I is the lowest and
16 least serious; category VI is the highest and the most serious.
17 And then with those two numbers that I talked about, the
18 offense level on the one hand and the criminal history category
19 on the other, the judge goes to the back of this book, where
20 there's a table or a grid, and I don't know if you can see it,
21 Mr. Parrello, but I'm sure you've gone over it with Mr. DeMarco
22 and Mr. Faga, but it's a chart, basically. And there's a
23 column here on the far left that's the offense level column.
24 It's numbered 1 through 43. And the judge goes down that
25 column until he or she gets to the number that the judge found

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1 to be the offense level in that case. The judge then goes
2 across these other columns from left to right, each of which
3 reflects a criminal history category, and the judge keeps going
4 until he or she gets to the criminal history category that the
5 judge found to be appropriate. And where the judge's finger
6 finally stops, well, that is the range which is set forth in
7 terms of months that the commission, the folks who prepared
8 this book, believe would be appropriate for that offense level
9 and that criminal history category.

10 So that's how this book works. And we're going to
11 spend a few minutes talking about it. This book is only one
12 factor that applies here. I don't have to follow this book.
13 It's not mandatory. I'm free to sentence above or below the
14 range in this book. I do, however, have to go through the
15 process of making my findings and I have to announce what the
16 range is before I move to the other factors that are also
17 relevant to sentencing. So it can seem a little technical. I
18 apologize for that. But it's important. This book is very
19 important, at least as a starting point for determining what
20 the sentence will be.

21 So in this case the probation department has set forth
22 its view as to what the guidelines are in this case. So
23 Mr. Parrello, you pled guilty to three different counts in the
24 indictment, and each of those counts is treated as a separate
25 group, and so I do a separate guidelines analysis for each and

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1 then I have to go to another part of the guidelines where I
2 group them, and I add more points if the groups are sort of
3 closely together in terms of what the offense level is. So
4 we're going to spend a few minutes on it. I don't think there
5 are any objections. It doesn't sound like there are any
6 objections. But if there are questions that you have, you'll
7 let me know, okay?

8 THE DEFENDANT: Yes.

9 THE COURT: All right. So the first group is a
10 conspiracy to commit extortion. That's in Count One. The base
11 offense level under the guidelines is level 18. There's then a
12 two-level increase because the offense involved an express or
13 implied threat of death, bodily injury, or kidnapping, and so
14 that's a two-level increase pursuant to 2B3.2(b)(1). There's
15 then an additional one-level increase because the loss, or the
16 amount of money that was demanded, was more than \$20,000 but
17 less than \$95,000 and so that's a one-level increase under
18 Section 2B3.2(b)(2) and 2B3.1(b)(7)(B).

19 According to probation, there's then a three-level
20 enhancement because Mr. Parrello was a manager or supervisor
21 but not an organizer or leader and the criminal activity
22 involved five or more participants or was otherwise extensive.
23 So that's a three-level increase under Sentencing Guidelines
24 Section 3B1.1(b). And that's where I have a question, because
25 the government's letter and the conduct described in the

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1 presentence report suggest that Mr. Parrello is a leader. I
2 mean, a manager or supervisor would seem to understate his
3 role. In fact, the government uses the word "leadership"
4 throughout its letter. I can quote it. I think I will. The
5 defendant's leadership role is referenced on page 11. "The
6 crimes to which Mr. Parrello pled were both serious and
7 violent. While he didn't commit or directly threaten any
8 violence, he directed others to do so on his behalf. His
9 instructions were explicit. Mr. Parrello repeatedly made clear
10 that his messengers were to communicate that the recipients
11 ignored his messages at their peril. He was therefore able to
12 terrorize debtors by proxy." And basically it describes him as
13 sort of returning to the same activity that he was convicted of
14 before when he was an acting capo of the Parrello Crew. So I'm
15 not sure why a three-level enhancement is appropriate instead
16 of a four-level enhancement, and maybe somebody can help me
17 with that. So again, I'm not bound by the government's and
18 Mr. Parrello's plea agreement. They agreed that three levels
19 was appropriate, but I just don't see it, given what's been
20 alleged here, and given how extensive the criminal activity
21 was. Certainly more than five people.

22 So anybody want to take a crack at that one?

23 MS. LONERGAN: Your Honor, just focusing on your last
24 comment, my understanding is that we look at the extensiveness
25 of the criminal activity or the number of people involved not

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1 with the overall conspiracy which was initially charged in the
2 indictment but rather for each extortion, and in fact, even had
3 the defendant here been convicted of a racketeering conspiracy,
4 which he's not, but even in that framework, leadership points
5 are not -- we'd then be looking at the racketeering conspiracy,
6 but here, we're looking at the extortions, and so the
7 government's position is that with respect to the first
8 extortion, the extortion of Victim 1 --

9 THE COURT: Right.

10 MS. LONERGAN: -- that that crime in and of itself did
11 not involve five or more participants or was otherwise
12 extensive, and that is why the government assigned three
13 leadership points rather than four.

14 THE COURT: Wait a minute. No, then it should be two.
15 If that's what you're saying, that makes no sense at all.
16 Respectfully. If it's not five or more people, then whether
17 he's an organizer, leader, manager, or supervisor, he would get
18 two levels.

19 MS. LONERGAN: Oh, under -- yes, yes, your Honor. One
20 moment, your Honor.

21 (Government counsel conferring)

22 THE COURT: The presentence report talks about
23 Mr. Parrello, Mr. Torres, Mr. Zinzi and others. It lists the
24 others, including the CW. It doesn't give the names of the
25 others but it does list them, CC3, CC2 --

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1 MS. LONERGAN: Your Honor, let me retract what I
2 previously said. So in the sentencing submission, I agree the
3 government used the word "leadership." I think we used that
4 word not as a term of art the way it is used in the Sentencing
5 Guidelines but rather to mean someone who has some sort of role
6 that is higher, perhaps, in a hierarchy than others. And we
7 believe that that term, "leadership," encompasses manager,
8 supervisor, organizer, or leader.

9 THE COURT: All right. Well, this is what leadership
10 and organizational role typically contemplates, according to
11 the guidelines. "Although the names or nomenclatures such as
12 'kingpin' or 'boss' are not controlling, factors that should be
13 considered by the court include:

14 The exercise of decision-making authority. I think we
15 have that.

16 The nature of participation in the commission of the
17 offense. I think you made it clear that nobody could collect
18 anything without Mr. Parrello's say-so.

19 The recruitment of accomplices. I mean, he certainly
20 authorized people to do things in the collection of the debt.

21 The claimed right to a larger share of the fruits of
22 the crime. That's certainly the case here, I think, right?
23 You said he got 28,000 out of the 30 that was collected.

24 The degree of participation in planning or organizing
25 the offense. You indicated he's sort of doing it by proxy, but

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1 certainly he is, it seems to me, the leader.

2 The nature and scope of the illegal activity and the
3 degree of control and authority exercised over others.

4 So which of those doesn't apply here?

5 MS. LONERGAN: Your Honor, I think the reason that we
6 believed that the three-level enhancement is appropriate more
7 than the four-level enhancement is because the way that we
8 understand that these crimes took place primarily involved
9 other individuals, other members of the conspiracy really
10 coming up with a plan --

11 THE COURT: Yes.

12 MS. LONERGAN: -- like a desire to extort somebody.

13 THE COURT: Sure. That's the way it always works,
14 right?

15 MS. LONERGAN: And then going to Mr. Parrello
16 basically for his okay.

17 THE COURT: Yes.

18 MS. LONERGAN: But he was not involved really in the
19 details. I think even with respect to recruiting accomplices,
20 sometimes he might say take this person with you but --

21 THE COURT: Well, he did say that.

22 MS. LONERGAN: Yes, your Honor, but many times the
23 participants of the plan were brought to him. For example --

24 THE COURT: And that you think makes a person not an
25 organizer or leader but a manager or a supervisor?

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1 MS. LONERGAN: Your Honor --

2 THE COURT: So who were the leaders, if not
3 Mr. Parrello, for this extortion?

4 MS. LONERGAN: Your Honor, it's not necessary that
5 every crime have someone in every level of the hierarchy.

6 THE COURT: But how is it possible to have managers
7 and supervisors without leaders?

8 MS. LONERGAN: Well, your Honor, I would submit here
9 that yes, Mr. Parrello, I would say, by dint of his role, I
10 would put him most likely at the top of the hierarchy, but I
11 don't think that it's necessary that every hierarchy have a
12 leader, a manager, and in fact, as the Court is aware, there
13 are many crimes, many conspiracies, large groups of people, in
14 which no one is assigned a leadership role even though
15 different participants exercised different roles.

16 THE COURT: Okay. But this is what the presentence
17 report, to which no one has objected, says with respect to
18 extortion 1. "Parrello ordered that Torres threaten Victim 1
19 on at least two different occasions. Parrello collected
20 \$30,000 from Victim 1 using the threat of death or physical
21 injury and kept approximately \$28,000 for himself. And then
22 the CW ultimately paid the \$30,000 owed to Capolongo." So that
23 seems to tick off most of the things that I described from the
24 commentary on role in the offense.

25 MS. LONERGAN: Your Honor, I think that these

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1 distinctions are in certain ways somewhat subjective, and so
2 the government, in negotiating a plea agreement, took a
3 position thinking about litigation risk, thinking about what
4 would be readily proven at a *Fatico*, and agreed with defense
5 counsel that the manager, supervisor enhancement was
6 appropriate based on the government's assessment of what proof
7 would look like with respect to a *Fatico* and contemplating
8 litigation risk. And for those reasons the government stands
9 by its agreement with defense counsel. Of course recognizing
10 that the Court or probation is free to apply whatever
11 enhancement the Court thinks is appropriate. But that was also
12 part of the consideration that went into the government's plea
13 agreement with defense counsel.

14 THE COURT: Okay. Mr. DeMarco?

15 MR. DeMARCO: Judge, I join in Ms. Lonergan's
16 application and just echo the arguments she made to this Court
17 and believe that the three-point enhancement is the proper
18 enhancement in this case.

19 THE COURT: Okay. Ultimately that one is my call, and
20 I just don't see it. I mean, I can see why it might be
21 attractive to sort of trade points as you try to get to a plea,
22 but the bottom line is, everybody knows -- and Mr. Parrello
23 certainly was told this at the time he pled guilty -- that it
24 would be for the Court to determine how the guidelines really
25 apply, and my job is to just play it straight, and it seems to

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1 me that there's no justification for calling this manager or
2 supervisor instead of organizer or leader. I just think that
3 any definition of that term that's consistent with what's in
4 the commentary compels a four-level increase. So I'm going to
5 make it a four-level increase. So that results then in an
6 adjusted offense level of 25.

7 Count Two, which is another conspiracy to commit
8 extortion, also begins with a base offense level of 18, has a
9 two-level increase because of the express or implied threat of
10 death, bodily injury, or kidnapping. There's a one-level
11 increase because of the amount that was demanded, or the loss
12 that was involved. And then the role in the offense for this
13 group is, in the probation report, listed as three. I think in
14 this one the parties have said no enhancement at all, I think,
15 is that right, in the plea agreement?

16 MS. LONERGAN: That's correct, your Honor.

17 THE COURT: Okay. So explain why that is.

18 MS. LONERGAN: Your Honor, this one -- I'm sorry.
19 When I made the argument I had with respect to the first
20 extortion, so we believe that no leadership enhancement is
21 appropriate here because the people, the participants had more
22 of an equal role in this. Mr. Parrello is, I think by dint of
23 who he is, sometimes exercises a little bit more authority, but
24 here we thought that it wasn't as direct as it was in the other
25 extortions, and so we believed --

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1 THE COURT: But can I interrupt you. I'm sorry.

2 MS. LONERGAN: Yes, your Honor.

3 THE COURT: It seems to me that what you have said is
4 that nobody could do anything, nobody could go collect or shake
5 down or threaten somebody without Mr. Parrello's permission.
6 Isn't that what you've said? Or am I wrong about that?

7 MS. LONERGAN: Your Honor, I think, with respect to
8 each of these extortions, with respect to certain of the
9 extortions, yes, Mr. Parrello provided authorization for the
10 others to act on his behalf.

11 THE COURT: But Mr. Parrello was the one intimately
12 involved in deciding what the terms of the collection were
13 going to be, according to what's in the presentence report,
14 right? In fact, he rejected offers made by other individuals
15 on behalf of the debtor, right?

16 MS. LONERGAN: That's correct, your Honor.

17 THE COURT: And it's Mr. Parrello who is telling
18 Mr. Torres and Mr. Zinzi what to do and how to go about doing
19 it, according to what's in this report. He instructed them to
20 go knock on his "expletive" door, tell him I want my
21 "expletive" money, cut his "expletive" tire, and that way he
22 can't get away from you. So basically tells them to go slash
23 his tires and get the money. He then is directly negotiating
24 with people on behalf of the debtor, is setting the terms, and
25 ultimately denying the terms of offers made, and then they come

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1 up with sort of a payment plan that Mr. Parrello has to bless.
2 So it's not clear to me why they're all equals. It seems to me
3 that Mr. Parrello is the person who is in authority and he will
4 decide whether and how the debt is collected and on what terms.
5 And he will authorize the use of force, that nobody can do
6 without his permission, according to what I'm reading here.
7 Maybe it's wrong. But that's what's in the report, that no one
8 objected to.

9 MS. LONERGAN: One moment, your Honor.

10 (Counsel conferring)

11 MS. LONERGAN: Your Honor --

12 THE COURT: Yes.

13 MS. LONERGAN: I'm sorry. I'm just noticing this now,
14 and maybe this is going to clear up some of the confusion. So
15 when you look on page 3 of the PSR, paragraphs --

16 THE COURT: Page 3?

17 MS. LONERGAN: Yes. Paragraphs 1, 2, and 3 describe
18 the three counts and the three extortions.

19 THE COURT: Right.

20 MS. LONERGAN: And it says Victim 1, Victim 2, Victim
21 3. And what I think happened -- and this may be on us, and my
22 apologies for not catching this sooner -- is that the
23 description later that what happened is that Victim 2 and
24 Victim 3 got swapped, so Count Two, which is the count for
25 which the government applied no leadership points, should

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1 actually be the description of the conspiracy to extort Victim
2 3.

3 THE COURT: Oh.

4 MS. LONERGAN: That is the one in which it is
5 primarily a conspiracy being directed -- or not being directed,
6 but it is really at Mr. Maiorino's behest that this is
7 happening and Mr. Parrello plays much less of a role in that
8 extortion. And that is why we thought that no leadership
9 points were appropriate for that, and that I think is where the
10 confusion has come from, and we should have caught this error
11 earlier.

12 THE COURT: Okay. All right. But even assuming
13 that -- so let's talk about that one then.

14 MS. LONERGAN: Sure, your Honor.

15 THE COURT: Because paragraph 53 says that
16 co-conspirator 1 explained that Parrello "made a decision, 'I
17 would very, very, very much advise you not to go against it.'
18 Victim 3 responded, 'I got it.' That's it. That's like the
19 judge putting the [expletive] guilty 20 years, have a nice
20 life." In other words, that Mr. Parrello is judge and jury
21 when it comes to this kind of thing. So that would suggest to
22 me, again, that he is the guy in charge and nobody can collect,
23 threaten, or keep money without his permission. Am I wrong
24 about that?

25 MS. LONERGAN: Well, your Honor, I think what's going

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1 on here --

2 THE COURT: Ultimately in fact Mr. Parrello pulled the
3 plug on this because of what appears to have been some
4 confusion about the identity of Patty Boy.

5 MS. LONERGAN: Yeah, I don't think he pulls the plug
6 on the conspiracy. What he --

7 THE COURT: Well, the conspiracy has already taken
8 place.

9 MS. LONERGAN: Yes.

10 THE COURT: But he pulls the plug on the collection,
11 right?

12 MS. LONERGAN: Well, on certain individuals being
13 involved in the collection. So it's the cooperating witness
14 and a co-conspirator who's now deceased who are collecting this
15 debt on behalf -- or attempting to collect this debt on behalf
16 of Pasquale Maiorino.

17 THE COURT: Well, but he basically took certain people
18 off of the collection -- namely, the CW and CC1.

19 MS. LONERGAN: Yes, your Honor.

20 THE COURT: He said they couldn't be involved in
21 collecting the debt anymore. He then realizes that Patty Boy
22 is Maiorino and not somebody else. And then the last thing in
23 the presentence report just says basically that somebody paid
24 this debt of \$30,000.

25 MS. LONERGAN: Yes, your Honor.

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1 THE COURT: Not telling me where it went and what
2 Mr. Parrello's role was in that.

3 MS. LONERGAN: Mr. Parrello basically says that his
4 people are no longer going to be allowed to participate or help
5 out in the collection of this debt. It really is a debt. It's
6 Mr. Maiorino's debt. And these three individuals come to
7 Mr. Parrello and basically say, we would like to do this on
8 behalf of Patty Boy. Mr. Parrello misunderstands who Patty Boy
9 is, says go ahead. They then work primarily with Mr. Maiorino
10 in attempting to collect the debt. They use Mr. Parrello's
11 name, but really the debt is Mr. Maiorino, the debt owed to
12 Mr. Maiorino. And then at some point when Mr. Parrello
13 realizes that he was confused about who Patty Boy is, he did
14 not think it was Mr. Maiorino, he believed it was someone else,
15 he asks the cooperating witness and CC1 to stop being involved
16 in the debt collection.

17 THE COURT: Yes. Okay. But it doesn't seem to me to
18 diminish Mr. Parrello's role.

19 MS. LONERGAN: Your Honor, while we certainly hear the
20 Court's argument, again, for many of the reasons that we
21 discussed with respect to the prior extortion, in thinking
22 about the facts of this extortion conspiracy as we understand
23 them and what would be readily proveable, we, the government,
24 in compiling the plea agreement -- and including the fact that
25 Mr. Parrello did not benefit financially from this extortion

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1 conspiracy -- believed that the appropriate enhancement here
2 was no leadership points, and we stick by that, but it is the
3 Court, of course -- as the defendant and everyone is aware, it
4 is ultimately the Court's decision.

5 THE COURT: Okay. Mr. Faga, did you want to be heard
6 on this?

7 MR. FAGA: Your Honor, with respect to the -- I know
8 we've talked back and forth, but with respect to the Maiorino
9 extortion, we respectfully submit that this was basically
10 Maiorino's plan, Maiorino was directing, and that the CW and CC
11 went to Mr. Parrello and said, hey, do you mind if we help
12 somebody else out, and he said, no, go right ahead.

13 THE COURT: Well, I mean, the report says more than
14 that. So --

15 MR. FAGA: I think other people attribute words to
16 him, but I don't believe that any of that came out of
17 Mr. Parrello's mouth.

18 THE COURT: Well, I mean, we're talking now about
19 what's in the presentence report as Victim 3, right? That's
20 what we're talking about?

21 MS. LONERGAN: That's correct, your Honor.

22 THE COURT: And we have to correct what's in the
23 presentence report to make sure that Victim 3 really pertains
24 to Count Two. But, I mean, it is represented, and it's
25 apparently recorded, that Parrello made the decision about what

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1 was going to have to be paid and when and how. So it's then
2 when Parrello sort of gets full disclosure about what's going
3 on, including the fact that Victim 3 -- well, basically
4 paragraph 59, it says Mr. Parrello basically said, you guys
5 can't be involved in this collection anymore, and he shuts it
6 down, which is something only a leader, it would seem to me,
7 can do. Seems to me it's still five people because Spirito
8 enters the conspiracy at that point, but I think it's the same
9 conspiracy. So it seems to me that that is a leadership role.
10 So I'm going to again assign four instead of three points,
11 which then puts Group 2, which really pertains to Count
12 Three -- so it's a little confusing because of what
13 Ms. Lonergan just told me, but anyway, the conspiracy relating
14 to Victim 3, 25 is the adjusted offense level. And then there
15 is Group 3.

16 MS. LONERGAN: Your Honor, may I just interrupt for
17 one moment with respect to that.

18 THE COURT: Sure.

19 MS. LONERGAN: I just, again, respectfully -- of
20 course it's the Court's decision, and I'm not a mathematician,
21 but I think that there are not five participants in that one.
22 I don't think we count the --

23 THE COURT: Mr. Parrello, Mr. Maiorino, CC1, and CW?

24 MS. LONERGAN: I don't think we count the cooperator.

25 THE COURT: Was he a cooperator at the time?

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1 MS. LONERGAN: He was.

2 THE COURT: Oh.

3 MS. LONERGAN: And then I think it's also Mr. Spirito,
4 but I think that's only four.

5 THE COURT: All right. But then that would be a
6 two-level I guess enhancement, if it's not more than five
7 people.

8 MS. LONERGAN: That's correct, your Honor.

9 THE COURT: Okay. So we're then talking about --

10 MS. LONERGAN: It should be Count Two.

11 THE COURT: Which in the presentence report is
12 Group 3?

13 MR. DeMARCO: Right.

14 MS. LONERGAN: Yes, your Honor.

15 THE COURT: All right. And then so this is the one
16 that had the dangerous weapon?

17 MS. LONERGAN: No, your Honor.

18 THE COURT: So Group 2 is actually Count Three and
19 Victim 3. That then should be a two-level enhancement for role
20 if there's less than five.

21 MS. LONERGAN: The Count Two is the Victim 3.

22 THE COURT: So Count/Group 2 is Victim 3. All right.

23 And then the other question I had is: Is the loss
24 more than 20,000? In the presentence report it talks about
25 16,000. And so now it may be with interest or the vig,

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1 whatever you want to call it, it's above that. But in the
2 presentence report, there is not a lot of information beyond
3 that. So Victim 3. Actually, no, Victim 3 is \$40,000. So
4 never mind. The amount is still then more than 20, less than
5 95.

6 MS. LONERGAN: Yes, your Honor. That's correct.

7 THE COURT: Okay. So then we're at 23.

8 And then there's Group 3, which is Victim 2. So
9 Victim 2, according to the parties, is Base Offense Level of 18
10 plus two for making threats of death, bodily injury, or
11 kidnapping. This is a three-level enhancement because of a
12 dangerous weapon. Dangerous weapon is what?

13 MS. LONERGAN: An ice pick, your Honor.

14 THE COURT: An ice pick. Okay. And then here, again,
15 there's an agreement that a leadership role or an enhancement
16 is appropriate for role. The parties have agreed that it's
17 manager or supervisor. It seems to me that it's
18 leader/organizer. Is there any argument that this is less than
19 five?

20 MS. LONERGAN: No, your Honor.

21 THE COURT: All right. So it seems to me that based
22 on what's in the presentence report, I'm again prepared to
23 conclude that it's a leadership role, which is a four-level
24 enhancement.

25 I did have a question, though, here, about the amount,

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1 but, actually, there's no enhancement amount here. So 18 plus
2 2 plus 3 plus 4 is 27. That means the levels are 25, 23, and
3 27. Let me just see if that affects the grouping analysis
4 since we now have a range of four levels between the highest
5 and lowest.

6 I apologize to you folks. This is really sort of like
7 accounting, and it is dry and on some level very dull. But it
8 is important ultimately in getting to the range, which is the
9 starting point, so thanks for your patience.

10 So with respect to grouping, so the grouping analysis
11 should be affected or not affected by this?

12 MS. LONERGAN: Your Honor, I think that the highest
13 level is 27.

14 THE COURT: Yes.

15 MS. LONERGAN: Count One, which is a level 25, that's
16 going to be one additional unit.

17 THE COURT: Yes.

18 MS. LONERGAN: And Count Two, which is 23 --

19 THE COURT: Yes.

20 MS. LONERGAN: -- is also one additional unit. Under
21 3D1.4(a), it says, "Count as one unit the group with the
22 highest offense level. Count as one additional unit for each
23 group that is equally serious or from one to four levels less
24 serious."

25 THE COURT: Okay. So --

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1 MS. LONERGAN: So it's three units.

2 THE COURT: So it doesn't affect the grouping
3 analysis, which adds three more units to the highest level.

4 MS. LONERGAN: Correct, your Honor.

5 THE COURT: So that's then 27 plus 3, which is 30.

6 All right. There's then three levels off for
7 acceptance of responsibility, which puts us at 27.

8 And then we'll talk about the reduction, the one-level
9 extra reduction, which the parties agreed to as sort of a
10 logjam or a concession in the event that 40 or 38 of the
11 defendants pled guilty by a set time. The criminal history, I
12 don't think there's any dispute. There's a 1961 conviction
13 that led to a year imprisonment, but that doesn't count, given
14 the age of that conviction. There is, however, the 2003
15 conviction which resulted in a sentence of 88 months for
16 racketeering. That results in three criminal history points.
17 It sounds like the earliest alleged conduct in this indictment
18 was after Mr. Parrello was off supervised release, so I don't
19 think there's any further enhancement. So that's criminal
20 history category II.

21 So offense level 27, criminal history category II, is
22 78 to 97 months.

23 If I were to accept the one-level reduction as part of
24 the global plea agreement, so that would bring it down to level
25 26, which is 70 to 87 months.

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1 So that's my math. Does anybody disagree with my
2 math? I know there were disagreements as to whether the extra
3 role point is appropriate, but anybody think I got the math
4 wrong? Mr. DeMarco?

5 MR. DeMARCO: No, you got the math right, your Honor.

6 THE COURT: Okay. And Ms. Lonergan?

7 MS. LONERGAN: The math is correct, your Honor.

8 THE COURT: So 70 to 87 months.

9 Well, that took longer than I thought, but it is
10 important. According to this book, at least as I interpret
11 this book, Mr. Parrello, the guidelines range here is 70 to 87
12 months. However, there are other factors that are just as
13 important as this book that judges have to consider in
14 fashioning a sentence. Judge Netburn told you what those were,
15 but I want to remind you and let everybody know, because it's
16 obviously going to affect a lot of people. There are a bunch
17 of other factors that Congress has said judges have to
18 consider, in addition to the book. Those factors include,
19 first of all, your own personal history, so the facts and
20 circumstances of your life, from your birth right up until now.
21 I have to consider the whole person. Many of the letters that
22 I received urged me to consider the whole person, look at this
23 person's entire life, and that's exactly what I have to do,
24 whether I wanted to or not. Of course I want to, but that's
25 what I'm required to do, look at the whole person. I have to

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1 make sure that the sentence I impose in this case is tailored
2 to you as an individual. And you're unique. You're different
3 than anybody else I've ever met or will ever sentence, and so I
4 have to consider your unique experience in fashioning a
5 sentence. So that's one thing.

6 Another factor that I have to consider involves the
7 facts and circumstances of these crimes. These are very
8 serious crimes. And I have to consider what exactly went on
9 here, not just what these crimes are called, but what they
10 entailed, what your role was, what the role of other people
11 was, what harms were caused, what injuries, what impact this
12 had on other people and communities. I have to make sure that
13 I tailor this sentence not just to you as a person based on
14 your whole experience but also to the particular crime. Now in
15 some ways the guidelines sort of do a decent job of that, but I
16 have to peel behind the guidelines and look very realistically
17 and in detail at these crimes to make sure that the sentence I
18 impose reflects the seriousness of these crimes and that the
19 sentence I impose promotes respect for the law, and that it
20 provides a just punishment for the crime. So that's another
21 factor.

22 Another factor that I have to consider is the need to
23 deter or discourage you and others from committing crimes like
24 this in the future. It's the hope that by imposing a sentence
25 on you today, I will send a message to you and to other people

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1 who might learn about this sentence in the future, and
2 hopefully the message will be received and internalized and it
3 will affect future behavior. The message will be that, hey,
4 we're not fooling around here. This is serious. And the
5 penalties are serious. And hopefully people say, wow, these
6 penalties are serious and it is just not worth it. The cost in
7 time and years and separation from loved ones far exceeds the
8 benefits of dollars and cents that comes from this kind of
9 criminal activity. Now I don't have a crystal ball. I can't
10 know for certain whether you or other people will get the
11 message and whether your future conduct will be affected by the
12 sentence that I impose, or whether their future conduct will be
13 affected. But there's something to this, I think most people
14 acknowledge. I think criminal justice systems from the
15 beginning of mankind have sort of recognized that this is part
16 of what goes into sentencing. And so as a judge, I'm required
17 to think about that and to use my best judgment as to what the
18 deterrent effect would be of the sentence that I impose. So
19 that's another factor.

20 Another factor requires me to consider your own
21 personal needs while you're in custody. So, I mean, you're a
22 healthy guy, but you've got some health issues. No question
23 about it. You're older than most of the defendants that I
24 sentence. It tends to be a young man's game, and most of the
25 people I sentence are in their 30s or 40s or younger, and they

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1 don't typically have a lot of health issues. They might have
2 other issues, mental health issues or substance abuse treatment
3 needs which have to be addressed. Some of the very young ones
4 need job training or educational opportunities, which doesn't
5 affect you as much. But whatever the needs of an individual
6 defendant, I have to make sure that the sentence I impose, if
7 it involves incarceration, is going to address their needs,
8 whatever they are. So that's another factor.

9 And then finally, the last factor that I have to
10 consider in addition to all the others is sometimes referred to
11 as the need to avoid unwarranted sentencing disparities between
12 similarly situated people. And that's kind of a mouthful. And
13 what it means, I think, is that before imposing a sentence in a
14 particular case, I have to take a step back and make sure that
15 the sentence I'm imposing is consistent with or at least in
16 line with other sentences imposed in other cases involving
17 similar conduct and similar defendants. No two cases are
18 exactly alike, no two defendants are exactly alike. But where
19 there are similarities, it's important that the sentences be
20 similar, because if the sentences are all over the place, if
21 some people get, you know, really harsh, lengthy sentences,
22 others get almost nothing simply because there were different
23 judges involved or different lawyers involved or it was
24 different parts of the country, well, that would probably
25 encourage disrespect for the law, and one of the goals of

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1 sentencing is to promote respect for the law and for the legal
2 process. So that's another factor I have to consider, the need
3 for some kind of consistency.

4 Now my job is to balance all of those things and to
5 come up with a sentence that is appropriate in light of all of
6 them. And sometimes that's tricky. Sometimes some of these
7 factors that I've described argue for a really harsh sentence,
8 while others argue for a lenient sentence, and so the balancing
9 is the part where judgment is required. And it's often more of
10 an art than a science. It's something I certainly take
11 seriously. Every judge I know takes it seriously. I think
12 about it. I've been thinking about you a lot in the last
13 couple of weeks as we've been getting ready for this day. I've
14 been thinking about your family and thinking about the people
15 who wrote, thinking about the impact this sentence will have on
16 them, including your grandchildren, who probably don't really
17 understand what's going on, other than that they know that
18 they're hurting and they're suffering as a result of the
19 separation. That is part of this process too. And I'll say up
20 front, I wish that weren't the case. I wish it weren't the
21 case that innocent people, spouses or children or
22 grandchildren, weren't also affected by a sentence. But the
23 nature of being human is that we're connected, and often
24 punishing a person who's committed a crime means that there is
25 an impact on the people closest to them, even though they're

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1 innocent.

2 So anyway, we're going to talk about these different
3 factors. Your lawyers have done a very good job of writing a
4 very thorough submission, and I commend them. I know
5 Mr. DeMarco and Mr. Faga a long time. They're really
6 conscientious, smart lawyers, and I thought that their
7 submissions that they made on your behalf was very well done,
8 very thorough, and very helpful to me. And the letters and
9 things that I got from other people give me insights that I
10 wouldn't otherwise have, so I'm grateful for that.

11 But I'm going to give the lawyers an opportunity to
12 expand on some of the things they talked about and to make new
13 arguments if they think appropriate. I'll then hear from the
14 government. I'll give them a chance to respond perhaps to some
15 of the arguments made by your lawyers, I'll give them a chance
16 to respond to some of my comments so far. I'll then let
17 Mr. DeMarco or Mr. Faga respond, if they wish, to anything that
18 the government has argued or anything that I may have said.
19 I'm not looking to shut this down. We're in no hurry today. I
20 apologize for that in some ways, but this is a really important
21 date for you and for your family and for others, so we're going
22 to take our time. It's important that we do this right. I
23 only get to do this once. And so it's important that we do
24 this carefully, dispassionately, respectfully, and diligently.
25 So that's what we're going to do, okay?

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1 So do you have any questions so far, Mr. Parrello?

2 THE DEFENDANT: No. I'm following you very well.

3 THE COURT: You're able to hear me okay?

4 THE DEFENDANT: Yes.

5 THE COURT: Good.

6 All right. So Mr. DeMarco, anything you'd like to say
7 beyond what's in your submission?

8 MR. DeMARCO: Yes. May I use the podium?

9 THE COURT: Yes. Let's everybody use the lectern I
10 think with the microphone pulled close, just because I want to
11 make sure everybody can hear what's going on.

12 MR. DeMARCO: Thank you, Judge.

13 THE COURT: Okay.

14 MR. DeMARCO: Your Honor, I'm not going to take that
15 long. I'll take just a little bit of time to emphasize what I
16 think needs to be emphasized about Mr. Parrello.

17 Now having appeared before your Honor on several
18 occasions, I know one thing for certain. I know for certain
19 that your Honor has thoroughly read the PSR, thoroughly and
20 exhaustively read our submissions including each and every
21 letter that we've submitted on Mr. Parrello's behalf.

22 THE COURT: Every one.

23 MR. DeMARCO: We know that, your Honor.

24 THE COURT: Yes. More than once.

25 MR. DeMARCO: I'm certain of that. If nothing else,

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1 I'm certain that your Honor has exhaustively read our
2 submissions. But there's still several points I'd like to
3 emphasize for the Court.

4 THE COURT: Sure.

5 MR. DeMARCO: The man that you're going to be
6 sentencing today is 73 years old. He has total hearing loss in
7 his left ear and partial hearing loss in his right ear, which
8 is progressively worsening. He suffers from high blood
9 pressure. He suffers from high cholesterol. He has been
10 diagnosed with prediabetes. I'm not sure what that means, but
11 his doctor included that in the letter to this Court.

12 THE COURT: I read that, yes.

13 MR. DeMARCO: He also has some dental issues. Now
14 about five years ago, he had some implants done on his front
15 teeth. Caps were implanted in his mouth. Now since his arrest
16 in this case, since his incarceration, they have loosened. Now
17 as you can see from the letter from his dentist, Dr. Weiss, and
18 also in our submission, we made note that, if not properly
19 taken care of, infection can set in, and as your Honor is well
20 aware, dental infections can lead to other problems, especially
21 for a 73-year-old man.

22 He has accepted responsibilities for the crimes that
23 he's been charged with. He pleaded guilty in a timely fashion.
24 And I believe I submitted more than 40 letters by friends and
25 family --

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1 THE COURT: Yes, I think so.

2 MR. DeMARCO: -- on his behalf.

3 THE COURT: Somebody had said 40. Maybe you had said
4 40.

5 MR. DeMARCO: In the initial submission there was 40.
6 I think I gave you maybe three or four more.

7 THE COURT: It's more than that. It's dozens.

8 MR. DeMARCO: Yes. Now these are letters from friends
9 and family of Mr. Parrello. And there was a common theme
10 throughout each, or common themes throughout each of the
11 letters that I submitted to your Honor. Mr. Parrello is a
12 kind, loyal, generous, charitable family man and friend. He is
13 someone who is religious, who donates his time and his energies
14 to the church in the Belmont section, Our Lady of Mount Carmel.

15 In the courtroom today is his wife, Mrs. Parrello.
16 Mr. and Mrs. Parrello have been married for 52 years, your
17 Honor. Ms. Parrello submitted a letter on her husband's
18 behalf.

19 THE COURT: Yes, I read it.

20 MR. DeMARCO: He is a loving father of Tara Brancato,
21 Dr. Tara Brancato, who is in the audience also today. She is a
22 professor at Dominican College in Rockland County, New York.

23 THE COURT: Yes.

24 MR. DeMARCO: He is the loving grandfather of two
25 7-year-old twins, Pasquale and Liliana, who adore their

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1 grandfather. When Mr. Parrello wasn't working at the
2 restaurant, he was taking care often of his two young
3 grandchildren, who adore him.

4 Now, your Honor, from his 7-year-old twin
5 grandchildren to people like 107-year-old Joseph Binder, a
6 World War Two veteran, who is in this courtroom today.
7 Mr. Parrello is loved and adored by all those who know him and
8 have had some contact with him.

9 THE COURT: Well, first of all, I want to acknowledge
10 Mr. Binder. So Mr. Binder, thank you for being here, and thank
11 you for your service to our country and for being here for
12 Mr. Parrello. I'm sure it means a great deal to him. All
13 right. So thank you, Mr. Binder.

14 But obviously the victims would not have had the same
15 experience as some of the people who wrote me letters. Can I
16 interrupt for a second.

17 MR. DeMARCO: Sure.

18 THE COURT: There were victims here, and victims have
19 a right to address the Court. They have a right to be present,
20 or to make a victim statement in writing. Have any of the
21 victims done that? Have they been asked if they wanted to do
22 that?

23 MS. LONERGAN: Yes, your Honor. They've all been
24 contacted and asked if they wanted to put in submissions, as
25 the government thinks it's important that the victims are heard

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1 from. We speak for them, but they also speak for themselves.
2 Unfortunately none of the victims have opted to put in
3 submissions or be here today.

4 THE COURT: Okay. All right. Sorry to interrupt.
5 It's something I wanted to know. But in any event, there is
6 that sort of obvious --

7 MR. DeMARCO: Excepting the victims, Mr. Parrello, to
8 his friends and family, is a kind, generous, loving man. For
9 example, Mr. Binder, who your Honor acknowledged moments ago,
10 as I said previously, he's a World War Two veteran. He
11 currently resides in a senior center, Providence Rest Nursing
12 Home in the Bronx. Mr. Parrello regularly sent him meals at
13 the senior center --

14 THE COURT: I read that.

15 MR. DeMARCO: -- and also made sure that there was
16 transportation for Mr. Binder to come to the restaurant where
17 Mr. Parrello worked so Mr. Binder can take part in social
18 activities and come to the restaurant and be part of the
19 Parrello family. Mr. Parrello almost took him in as a father
20 type figure and looked after Mr. Binder. That's the type of
21 man Mr. Parrello is.

22 Now Mr. Parrello is also a devout Roman Catholic. Now
23 I say that, your Honor, for the following reason. Since his
24 arrest, because of the separation orders, as I've set forth or
25 detailed in my submission, Mr. Parrello has been unable to

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1 attend Catholic services at the MCC and the MDC, which has
2 truly troubled Mr. Parrello, but there is nothing in our power
3 to remove those separation orders. But I also stated that
4 because Mr. Parrello donated a substantial amount of time and a
5 significant amount of money to his local parish, Our Lady of
6 Mount Carmel. That's on 187th Street in the vicinity of
7 Arthur Avenue.

8 THE COURT: I read all that too. But I guess, again,
9 the sort of obvious question gets raised, well, I don't think
10 Christianity and Roman Catholicism necessarily take an easy
11 view towards extortion and threats of violence in collecting
12 debts, right?

13 MR. DeMARCO: I'm not saying that it does, your Honor.
14 I'm not saying that the Catholic church condones extortion
15 or --

16 THE COURT: So it's hard to square some of these
17 things that you're saying about Mr. Parrello, right? I mean,
18 that's the obvious tension that I see from the submissions and
19 the crimes.

20 MR. DeMARCO: What I just want to emphasize, your
21 Honor, is that Mr. Parrello takes his religion seriously. He
22 has donated to different -- significant time and substantial
23 money to the church. He's helped organize feasts, Feast of
24 St. Anthony and other events that were hosted by the church. I
25 just ask that your Honor consider that in imposing a sentence.

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1 Now I think another common theme in the letters
2 submitted were how Mr. Parrello tended to people in times of
3 need or distress. There are instances where people write how
4 Mr. Parrello has taken people into his home and raised them as
5 one of his children in times when people were in need of a
6 home, a roof, or some sort of parental guidance. Mr. Parrello
7 was always there when needed for someone in times of distress.
8 He and his wife would take them into the family home and
9 provide for them. Letters speak about Mr. Parrello paying for
10 cab fares for elderly patrons of the restaurant. One letter
11 speaks about how Mr. Parrello provided space so that some young
12 kids could practice dancing; how he gave kind and encouraging
13 and uplifting words to people in times of need; how he was
14 instrumental in making sure that the local church had
15 wheelchair access for the disabled; and how he would counsel a
16 young person who he felt was heading in the wrong direction in
17 life.

18 Your Honor, I repeat, Mr. Parrello is 73 years old,
19 and he has significant and serious health issues. A sentence
20 here within the guideline range could actually result in
21 Mr. Parrello spending the rest of his life in a federal prison,
22 and I ask that your Honor take that into consideration when
23 sentencing Mr. Parrello.

24 Your Honor, you know, in preparing for this
25 sentence -- I'm going a little bit off the cuff here and I

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1 apologize, your Honor -- I recalled another case I had before
2 your Honor. It was a trial; it was a debt collection case.
3 I'm sure your Honor recalls it. And --

4 THE COURT: On Todd Williams, yes.

5 MR. DeMARCO: Yes. And that was an interesting case
6 where we went to trial. The government's evidence was, I
7 submit, overwhelming. In that case the defendant took the
8 stand, at trial. At sentencing, after his conviction, he stood
9 up in this court and showed little, if any, remorse. His
10 guidelines were in the triple-digit-month range. He had a
11 significant criminal history. Although he was charged with
12 wire fraud, it seemed to me that he could have been charged in
13 that case with extortion, given the conduct that was conducted
14 by that debt collection agency. His guidelines were through
15 the roof, your Honor. His guidelines were in the 15-year
16 range, if I recall properly. And your Honor, using 3553(a) and
17 viewing that defendant, who was 51 years old at the time of
18 sentencing, sentenced him to 60 months, and I thought that was
19 an incredibly lenient and fair sentence. So --

20 THE COURT: It was a fraud case. It wasn't an
21 extortion case. It was a fraud case.

22 MR. DeMARCO: But you recall the facts of that case,
23 your Honor.

24 THE COURT: But he hadn't been convicted of
25 racketeering and served seven and a half years previously.

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1 MR. DeMARCO: That's correct, but his criminal history
2 was substantial, your Honor.

3 THE COURT: Yes, yes.

4 MR. DeMARCO: And his criminal history category was
5 much higher than criminal history II. And I saw your Honor
6 impose what I believed to be an incredibly fair, lenient
7 sentence. So I know that your Honor does take this incredibly
8 seriously and considers all of the 3553(a) factors.

9 Now understand this, your Honor -- we are not excusing
10 Mr. Parrello's conduct. We are not saying that he's innocent.
11 If we were saying that, we wouldn't be here for sentencing
12 after a plea of guilty. What we are saying is that we have a
13 73-year-old man who has the support of numerous friends and
14 family who have shown up in this courtroom today, many of whom
15 have written letters to this Court providing examples of the
16 good deeds done by Mr. Parrello.

17 I'm going to ask that your Honor consider all of those
18 3553(a) factors, and again, your Honor, I emphasize, I
19 emphasize Mr. Parrello's age and health concerns when doing so,
20 your Honor, and consider giving him a sentence well below the
21 advisory guideline range, as your Honor is empowered to do so.

22 Thank you for giving me this opportunity, your Honor.

23 THE COURT: That's quite all right. Thank you,
24 Mr. DeMarco.

25 Ms. Lonergan, do you wish to be heard?

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MS. LONERGAN: Yes, your Honor.

Your Honor, like Mr. DeMarco, I have the utmost confidence that the Court has read everything that's been submitted, and I don't want to belabor the point, but I do think it's important to put in the record a little bit about these crimes, because these crimes are serious and violent, and while it was not Mr. Parrello himself who engaged in any violence, he was well aware of the potential for violence, he was well aware of the fact that others intended to use violence, and he in fact engaged in conversation with his proxies about the kind of words to use and the kind of threats to make to best compel the debtors in this case to pay what was owed. And I think it's important to understand that this violence was not -- this was not an instance of, say, for example, a violent gang rivalry, and I'm not condoning the violence in any way in those cases, but in certain ways that's a back-and-forth kind of violence in which both sides are, for example, shooting at each other. There's some element in those cases of retaliating to protect yourself -- not self-defense, but that both sides are engaged in violence, and of course in those cases there are innocent bystanders and civilians who get caught up, but many of the victims in those kinds of cases are themselves perpetrators of violence. Here, the victims, they were not violent people. They were not perpetrating violence against the defendant or his co-conspirators. They did not

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1 pose any sort of threat to the defendant's own safety. What
2 they posed a threat to was the defendant's financial
3 well-being. They owed him and other people money. And in the
4 face of people who owed him nothing but money, he nevertheless
5 decided that the way to address that was violence. And I think
6 that's important, because it's a different kind of victim in
7 that situation.

8 Also, these debts were accrued in the course of
9 gambling, which is itself an illegal enterprise. And the
10 government has already quoted some of the defendant's
11 statements in the sentencing submission, but I think it's
12 important. Again, I'm going to put some of them in the record,
13 and I'm going to delete the expletives here. So he, the
14 defendant, says, with respect to one of the victims, "Cut his
15 tire. That way he'd have to change the tire so then you know
16 you can catch up with him. Give him a flat. Take the air out
17 of the tire, whatever you gotta do. Then catch up with him
18 because he's there, you know, he's got to get it fixed, he
19 can't go nowhere, and then you surround the -- victim. That
20 how youse do it." And so this is very calculated and it's
21 directed to put the victim in a vulnerable situation so that
22 the defendant's proxies can then exploit, again, just all in
23 favor, all in the interest of collecting debts. And so that
24 conduct is incredibly troubling. It's violent and it poses a
25 grave risk of harm to the community, that he is willing to

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1 engage in this kind of violence, to discuss with others
2 engaging in this level of violence simply over money.

3 I think that what the crimes and the defense
4 submission portray is a man with two faces. I think he has the
5 face that he presents to his family, to his friends, to the
6 community of a kind and generous and loyal man. But that's not
7 the only face that he has. The face, as the Court pointed out,
8 that he presented to his victims, that he presents to his
9 co-conspirators, is a very different face. That's the face of
10 a man who's willing to utilize violence, that's the face of a
11 man who does not take no for an answer, that's the face of a
12 man who is willing to do whatever is necessary simply to recoup
13 gambling debts. And that's a very different person than the
14 person whom I submit most of these people know. But that is
15 just as much a part of the defendant as the other face that he
16 portrays.

17 I also submit that his charitable acts have two faces.
18 They certainly benefited the recipients. There is no taking
19 away from the fact that when Mr. Parrello gave people money who
20 needed money, they then had it. There's no taking away from
21 the fact that when Mr. Parrello gave someone, offered someone a
22 ride somewhere or meals, those are things that the recipients
23 of his generosity have. But these acts are not entirely
24 selfless. They also benefited the defendant. They allowed him
25 to be beloved in the community, to commit crimes in the open,

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1 from his restaurant, and not be reported. They allowed him to
2 commit serious crimes over and over again and still have the
3 support that the Court sees today, which, in the government's
4 experience, and probably in the Court's experience, is unusual
5 for a recidivist criminal.

6 This recidivism, the fact that he committed these
7 crimes after previously being sentenced to a term of 88 months,
8 is also incredibly troubling to the government. First of all,
9 it demonstrates a real lack of remorse on the part of the
10 defendant, because he committed serious crimes which he was
11 previously sentenced for, and that long period of incarceration
12 did nothing to deter him from committing future serious crimes.
13 It gives the government no confidence that he is willing or
14 able to live a law-abiding life. And I think it's important to
15 note that the defendant has had the support of his family, his
16 friends, and his community for years, for decades, and none of
17 that support has done anything to deter him from continuing to
18 commit crimes.

19 Similarly, the defendant's health issues. While the
20 government does not want to in any way make little of them,
21 they are somewhat typical of that of a man of his age, and his
22 age and his health issues have not deterred him either. He
23 committed the instant crimes well in his late 60s, and there is
24 nothing to suggest that these health issues, whether it's
25 hearing loss or other health issues, will deter the defendant

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1 in the future. As the Court noted, the defendant's roles in
2 these crimes allowed him to stay sitting in his restaurant or
3 in his home. And he could commit the crimes by having others
4 go out on the streets and engage in these crimes on his behalf,
5 and health issues will not prevent that kind of criminal
6 behavior.

7 So for all of those reasons, the government submits
8 that the defendant's request for a below-guidelines sentence is
9 not warranted. It's not warranted in light of the seriousness
10 of the offense, it's not warranted in light of the need for
11 both specific and general deterrence, it's not warranted on
12 behalf of the victims of these offenses, and it's not warranted
13 in light of the characteristics of this particular defendant,
14 who continues to commit crimes despite serious prior prison
15 sentences.

16 THE COURT: All right. Thank you, Ms. Lonergan.

17 Mr. DeMarco, anything you'd like to say in response?

18 MR. DeMARCO: Briefly, your Honor.

19 THE COURT: Yes.

20 MR. DeMARCO: I just wanted to point out, your Honor,
21 that the crimes that Mr. Parrello has pleaded guilty to were
22 committed in 2012. That was roughly five years ago. It was
23 exactly five years ago. He's a different man today. He's much
24 older. He's much more infirm today than he was then. And I
25 submit, ask Mr. Binder --

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1 THE COURT: Well, in 2014 were the acts, the most
2 recent acts in the presentence report. January, March, 2014.

3 MR. DeMARCO: October 2012.

4 THE COURT: I'm looking at paragraph 34. 33, 34 and
5 35 are certainly 2014.

6 MR. DeMARCO: Early 2014, your Honor, yes, I found it.
7 The other two were in 2012, your Honor.

8 THE COURT: Okay.

9 MR. DeMARCO: My only other response to what the
10 government just argued to this Court is, I ask that this Court,
11 or anyone else, ask Mr. Binder or any one of these numerous
12 people in the audience or any one of the people that
13 Mr. Parrello helped during his or her time of need or at a low
14 point in their life, ask one of these people whether
15 Mr. Parrello was helping them or assisting them or being kind
16 to them to further any criminal enterprise. It's our
17 contention, your Honor, that he was not being kind to
18 Mr. Binder or anyone else, either in this courtroom or anywhere
19 else, in order to further his criminal enterprise.

20 And with that, your Honor, I'll sit down. Thank you.

21 THE COURT: Okay. Thank you, Mr. DeMarco.

22 Ms. Lonergan, anything you want to say?

23 MS. LONERGAN: No, your Honor.

24 THE COURT: All right. So Mr. Parrello, as I said
25 before, you have a right to address the Court, and you're very

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1 welcome to. You're not required to, but if there is anything
2 you would like to say, then now is the time to do it. You can
3 remain seated. Just pull the microphone closer if you wish to
4 say something.

5 THE DEFENDANT: First of all, I just want to apologize
6 for everything that transpired, and I feel remorseful. These
7 things that I'm being accused of here, I'm taking my
8 responsibility, and just trying to be a better person
9 afterwards.

10 THE COURT: Okay. Thank you, Mr. Parrello.

11 All right. We've been at this for a while. What I
12 would like to do, if it's all right with you folks, is take a
13 short break. Anybody who needs to use the restroom can do
14 that. They're in the hallway. The reason I want to take a
15 short break is, I've been thinking about this case for quite
16 some time. I've been preparing. I'm sort of known for that, I
17 guess, but I think all judges take it very, very seriously.
18 But I want to make sure always that I come to a proceeding like
19 this one open to hear things that might change my mind and to
20 reconsider, in light of arguments made or facts presented that
21 will encourage me to take a fresh look. So I'm going to take
22 probably no more than ten minutes to just collect my thoughts,
23 think about what I've heard here today. I'll then come back.
24 At that point I'll announce the sentence that I intend to
25 impose, I will explain my reasons for it, I'll check with the

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1 lawyers to make sure I haven't done something illegal or
2 improper. Assuming not, then I will formally impose the
3 sentence. So it won't take too much longer, but I'd like to
4 take a short break, if it's all right with you, okay? So,
5 great. Thanks a lot. I'll see you in about ten minutes.

6 (Recess)

7 (In open court)

8 THE COURT: Thank you. Have a seat.

9 All right. Thank you for your patience. It is a
10 difficult thing to impose a sentence on another human being.
11 It's the hardest part of my job -- not intellectually but
12 emotionally and in terms of judgment, because as I think every
13 judge recognizes, in some sense, they're not up to the task;
14 they're not adequately able to judge another person. And I
15 think everybody should know that going in, that this is a human
16 institution, and as human beings, we do the best we can.

17 I look at Mr. Parrello, and I have to say, this is a
18 complicated man. Like most people, like most individuals,
19 whether they're defendants in a criminal case or not, he's
20 multifaceted, he has many different qualities, and I think
21 that's true in this case as well. Many of you have written
22 about those qualities, and I thank you for writing. I don't
23 think anybody's trying to snow me. I don't think anybody is
24 being dishonest or lobbying me. I think that you're being
25 sincere. I think that you're in many cases being very sincere

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1 and being very eloquent about a person you know and experiences
2 you've had with him and sharing those experiences to reflect a
3 side of him that I think is real. So I don't think it's a con
4 job or anything like that. The letters I got were too numerous
5 to read here. There were a couple that I noticed and that I
6 thought were worth sharing, and it's just a couple, because the
7 things they said were representative of many other letters as
8 well. But there was a letter, for example, from Mr. Squitieri
9 from the funeral home, and he said at the end of his letter,
10 which went into some detail about the kindness shown by
11 Mr. Parrello towards others, including Mr. Binder, but he said
12 at the end, "There is another side to this man -- a side that
13 respects tradition, honors patrons, and loves people. He loves
14 his family and plays an important role in the lives of his
15 grandchildren. I'm sure that his absence has affected him and
16 the children immensely." And I think that's well said. And I
17 have no reason to doubt any of it. I think it's all true.

18 I got another letter from Anthony Sacco, who, again,
19 described a lot of things in detail, but he said at the end,
20 "So the definition of character is this: the aggregate of
21 features and traits that form the individual. Mr. Parrello's
22 aggregate is comprised of honesty, generosity, devotion, and
23 sincerity. It's imperative that a man like this be treated
24 fairly and just. He is and always will be a very large part of
25 many people's lives." And that's very well said, I think. It

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1 is certainly the case that Mr. Parrello is a large part of many
2 people's lives, and will be no matter what sentence I hand down
3 today. And that's to his credit. Look, it's to Mr. Parrello's
4 credit that there are so many people here today, who have
5 written letters, who are here standing with him to show
6 support, who are willing to share, in some cases, very intimate
7 experiences that they've had with him at times of great
8 vulnerability in their lives when they were down and out, and
9 they shared that with the Court because they thought it was
10 important that I see that side of this man's character. And so
11 I credit that. I credit all of that. I recognize that this is
12 a man who's capable of real kindness and real generosity, real
13 acts of charity and friendship, that he takes his family
14 relationships very, very seriously, and that those close to him
15 are suffering as they're separated from him. But of course
16 there is more than just the qualities of generosity and honesty
17 and kindness that are described in the letters, and I think
18 many of the letter writers are largely unaware of the crimes
19 charged in this indictment and admitted to in the guilty plea
20 that are set forth in detail in the presentence report, and so
21 in many cases you can't know these things and, my sense is,
22 perhaps wouldn't want to know them, because they are very much
23 at odds with the man you know. They're different than the
24 experiences you have had. But they are also true. I mean,
25 nobody has a monopoly on truth, and there's a lot of truth that

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1 gets presented at a sentencing. Each person has their own
2 sense of the individual, and it is usually the case that no
3 defendant is all one thing or all another. They're varied.
4 There's a lot there. And so Mr. Parrello is certainly a varied
5 person with a lot of different qualities, good but also bad.

6 These crimes are serious crimes. These are crimes of
7 violence. That is ultimately what they are. Mr. DeMarco made
8 the point comparing Mr. Parrello to another defendant whom I
9 sentenced in a case, and Mr. DeMarco represented that defendant
10 very ably, I might add, but that was a case where it was a debt
11 collection operation that was attempting to collect debts that
12 were sort of legally incurred, and the fraud, which maybe could
13 have been construed as extortion, was threatening people that
14 if they didn't pay, legal process, criminal legal process would
15 be brought against them, that there would be a warrant issued
16 for them. This is very different than that. None of the
17 people who were the victims in these crimes were threatened
18 that if they didn't pay, there would be a warrant for their
19 arrest; they were threatened with death or physical harm.
20 That's worse. That is worse. That is a violent crime. And
21 violent crimes do tremendous harm, not just to the individuals
22 who are on the wrong side of the threats but to society at
23 large. And so there's a reason why the penalties are high for
24 this kind of crime.

25 And I think, look, most everybody in this room is a

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1 law-abiding person. I have no reason to doubt that. And
2 you've shown your support for someone who has committed serious
3 crimes, not once but multiple times, and that's to your credit.
4 But the fact is that these are serious crimes, and the law has
5 to speak to those.

6 Another factor that has to be considered is the fact
7 that this is not the first time. One of the letters that I
8 received -- again, a very thoughtful letter, and this is not a
9 criticism, but one of the letters that I received, urging me to
10 be lenient, said Mr. Parrello would never take for granted a
11 second chance to prove himself and risk missing out on life's
12 gift. But the reality is that he did take for granted a second
13 chance. Mr. Parrello was prosecuted for racketeering back in
14 2001. He pled guilty, was sentenced in 2003 to a sentence of
15 88 months. That was the opportunity to turn it around. And
16 most people who serve that kind of time do. They recognize
17 that it is not worth it to go back to a life of criminality.
18 And yet Mr. Parrello did come back. That's a reality that
19 can't be ignored. Many of the arguments made today, very
20 eloquently, by Mr. DeMarco and by the people who wrote letters,
21 were made in 2003 to Judge Carter. I mean, some of you wrote
22 more than one letter, I think. I saw you wrote letters then.
23 Certainly Mr. Nadler wrote a letter and I think his mother
24 wrote a letter 15 years ago, 14 years ago. The fact is that
25 many of these qualities that have been extolled, properly, were

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1 on display 14 years ago. And you don't get to keep making that
2 argument over and over. The second chance has come. You had
3 the second chance.

4 And so, Mr. Parrello, I'm just sort of struck by, this
5 is a choice you made to return to a life that is known to be a
6 life of crime and a life of violence, a life that leads to jail
7 and prison, and, in many cases, dying in prison. I mean, that
8 is what happens to folks in this line of work when they go back
9 to it in their 50s and 60s. That's just the reality. There's
10 a long history of capos in crime organizations who die in
11 prison because they have continued committing crimes well into
12 their 50s and 60s. And so it seems to me that, Mr. Parrello,
13 you must have understood this. You had 88 months to think
14 about it the first time, and yet you returned to it. You
15 returned to a life that all too often leads exactly to where we
16 are today. And it can't be that you then roll out the same
17 arguments that "I'm a really good person," that "I'm good to my
18 family and I'm good to my community and I'm capable of
19 kindness." All of which is true, but that can't be a "get out
20 of jail" card or "reduce the jail sentence" card. It just
21 can't be after it's been done before.

22 So my job is to impose a sentence. It's also to try
23 to explain a sentence. And that's sometimes hard to do. And
24 sometimes it's the greater responsibility. Because each person
25 here today has come with a view as to what would be just based

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1 on their own experiences. And I respect that. I do. I have
2 to impose a sentence that I think is just based on all the
3 factors I've explained, which are generally broader factors and
4 involve more information and more consideration than many of
5 the decisions that you have to make as to what would be an
6 appropriate sentence. And so I think it's important that as
7 I'm articulating this, you at least understand that this is a
8 careful process. It's not kneejerk, it's not just reflexive,
9 it's not visceral and cruel; it is thoughtful. It tries to be
10 careful, and tries to ultimately be wise, to the extent that
11 human beings can be wise. My hope is that you don't leave here
12 so disappointed that you have less respect for the institution,
13 which are our institutions. Our courts and our government are
14 our institutions. My hope is that that confidence is not
15 shaken even by a sentence that you ultimately disagree with,
16 because as I said, I respect your right to disagree with the
17 sentence I impose and the fact that you're entitled to your
18 views as to what would be just. We all are. That's what it is
19 to live in a democracy. But my responsibility is to impose
20 that sentence. And in light of everything that I've seen,
21 everything I have heard, everything I have read, including the
22 arguments made 14 years ago in front of Judge Carter, it seems
23 to me that a sentence of seven years is appropriate. That's
24 within the guidelines that I found. It's above the guidelines
25 the government and the defense agreed to, but I just think

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1 anything less than that would be wrong. I just think that
2 sentences typically don't go down over time, they go up. And I
3 think everybody should be on notice of that, and particularly a
4 man as intelligent and thoughtful as Mr. Parrello should have
5 been aware of that. So that's the sentence that I intend to
6 impose. Concurrent on each of the counts of conviction.

7 I'm also going to impose a term of supervised release
8 of three years, with terms and conditions that I'll announce
9 formally, but they track what's in the presentence report.

10 Probation has recommended a fine. Nobody has really
11 talked much about a fine here today. It does seem that
12 Mr. Parrello has more assets than most defendants that I
13 sentence. So I will impose a \$15,000 fine as recommended by
14 probation, along with a \$300 special assessment and forfeiture
15 in the amount of \$68,300, which has already been agreed to by
16 the parties.

17 So that's the sentence that I intend to impose. Is
18 there any legal impediment to my imposing that sentence,
19 Ms. Lonergan?

20 MS. LONERGAN: No, your Honor.

21 THE COURT: Mr. DeMarco?

22 MR. DeMARCO: There is no legal impediment, your
23 Honor, but I just want to note my objections to the
24 enhancements you made to the guidelines previously.

25 THE COURT: Yes. I think that those are already

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1 preserved for the record, but in any event, that's fine.

2 MR. DeMARCO: In case they weren't.

3 THE COURT: Okay. So Mr. Parrello, would you please
4 stand.

5 Mr. Parrello, having accepted the guilty plea that was
6 made before Judge Netburn, having adjudged you guilty on the
7 three counts, I now sentence you as follows:

8 I sentence you to a term of incarceration of seven
9 years, that's 84 months, to run concurrent on each of the
10 counts. That will be followed by a term of supervised release
11 of three years on all counts, also to run concurrently. That
12 term of supervised release will include the following
13 mandatory, standard, and special conditions:

14 First, that you will not commit another federal,
15 state, or local crime;

16 Second, that you may not unlawfully possess a
17 controlled substance;

18 Third, that you will submit to drug testing within 15
19 days of your release and twice thereafter.

20 You will cooperate in the collection of DNA as
21 directed by the probation officer.

22 There are 13 standard conditions. I will impose those
23 here as I do in every case. I'll also impose the following
24 special conditions:

25 You are to provide your probation officer with access

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1 to any requested financial information. You are not to incur
2 new credit charges or open additional lines of credit without
3 the approval of the probation officer.

4 You must submit your person, your residence, your
5 place of business, your vehicle, or any property, including
6 electronic devices under your control, you must consent to a
7 search of those things if the probation officer believes there
8 may be evidence of a crime or evidence of a violation of the
9 conditions of your supervised release. You have to consent to
10 that. You have to allow that to take place. You can't refuse.
11 You also haven an obligation to disclose to any persons with
12 whom you share these premises that you are subject to this
13 search requirement, and this is to allow them to take steps to
14 preserve their property and their privacy. Okay?

15 I'm going to have you supervised in the district of
16 your residence. That's this district. You are to report to
17 the probation office within 24 hours of your release from
18 custody. So unless the next day is a holiday or a weekend,
19 then you should go the very next day from when you're released.

20 I'm going to impose a special assessment of \$300 --
21 \$100 for each count of conviction.

22 I'm going to direct that you pay a fine of \$15,000 to
23 be paid in monthly installments of 10 percent of your gross
24 monthly income over the period of supervision to commence 30
25 days after your release from custody. I guess if you're

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1 earning money while you're in jail, then I'll ask you to also
2 submit 10 percent of what you get from a job program in prison
3 to the payment of the fine.

4 And then there is a forfeiture of \$63,800. I think I
5 inverted that before, but it's \$63,800. That's pursuant to an
6 agreement executed by the parties on the day that you pled
7 guilty.

8 Are there any open counts, Ms. Lonergan?

9 MS. LONERGAN: Yes, your Honor, there is an underlying
10 indictment that the government moves to dismiss at this time.

11 In addition, your Honor, the government asks that the
12 Court keep the judgment open for 45 days with respect to
13 restitution. As the government made clear before, we have
14 reached out to the victims, but we would like to do that one
15 more time pursuant to their rights under the statute, to reach
16 out to them one more time to see if they have restitution
17 claims. And we will submit that first to defense counsel and
18 then to the Court in 45 days.

19 THE COURT: All right. The law allows that, so any
20 objection to that, Mr. DeMarco?

21 MR. DeMARCO: No, your Honor.

22 THE COURT: Okay. So I'll allow restitution. I'll
23 keep the judgment open with respect to restitution. Otherwise
24 I will docket the J of C probably in the next day or so.

25 I should tell you, Mr. Parrello, you have the right to

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1 appeal this sentence. I sentenced you actually above what your
2 plea agreement said would be the range. I found a different
3 range, as I have obviously the right and responsibility to do
4 when I think appropriate. But because of the sentence I
5 imposed, you've got a right to appeal, so if you wish to
6 appeal, you would need to file a notice of appeal within two
7 weeks. So talk to your attorneys about that. They'll assist
8 you in filing the notice. That's not the full-blown appeal;
9 it's just a notice saying you intend to appeal. That's a
10 pretty strict deadline, so you have to comply with that. So
11 two weeks from today or probably two weeks from tomorrow at the
12 latest. Okay?

13 All right. Is there any recommendation you'd like me
14 to make with respect to where --

15 MR. DeMARCO: Actually there are several matters I'd
16 like to address.

17 THE COURT: Okay. You can have a seat.

18 MR. DeMARCO: Your Honor, the recommendation with
19 respect to his designation, I'd like the Court to recommend FCI
20 Danbury, as I put in my papers. Danbury is 70 miles from
21 Mr. Parrello's home, so it would give access to his wife and
22 his grandchildren for visitation purposes. It also has a
23 health clinic and a hospital nearby, which, given his age and
24 health concerns, would be the appropriate designation, and so
25 we're going to ask that your Honor specifically designate FCI

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1 Danbury.

2 THE COURT: Okay. I'm happy to recommend that. I
3 can't order it, but I can recommend it. And the Bureau of
4 Prisons I think certainly attempts to honor those
5 recommendations, so I will make that recommendation.

6 MR. DeMARCO: Thank you, your Honor.

7 There is also -- I raised this with the government and
8 I'm also going to raise this with the Court; at least make it
9 part of the record. Since his arrest there's been separation
10 orders in place, and as I stated previously, among other
11 things, the separation orders prevent Mr. Parrello from
12 attending religious services. We ask that since the case is
13 final as of today, that the separation orders be lifted so that
14 Mr. Parrello has access throughout the prison to attend
15 religious services and so on and so forth.

16 THE COURT: I don't know that I can order or even
17 recommend that separations be lifted. I think the government
18 and the Bureau of Prisons -- to the extent there are
19 separations that are no longer necessary, then they should be
20 lifted. But it would seem to me, even with separations, there
21 should be steps that could be taken to make sure that
22 Mr. Parrello is able to participate in religious observances.

23 MR. DeMARCO: There should be, but there haven't been,
24 your Honor.

25 THE COURT: Well, that's something to be taken up with

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1 the Bureau of Prisons. I'm happy to make that part of the
2 recommendation, that he be --

3 MR. DeMARCO: Please.

4 THE COURT: -- allowed to participate in religious
5 observances, and I'm happy to even make a call to the Bureau of
6 Prisons about that. The legal counsel over there, Adam
7 Johnson, is generally very receptive.

8 MR. DeMARCO: He's at MCC.

9 THE COURT: He's counsel for both.

10 MR. DeMARCO: He's very receptive. I don't know if
11 he's empowered to --

12 THE COURT: He's legal counsel for both. So that's
13 usually my first call, and I'm happy to make that call. I
14 think that's important that Mr. Parrello have that opportunity.
15 One might argue he even has a right to it. So --

16 MR. DeMARCO: I have in hand a bank check, an official
17 bank check in the amount of \$63,800, which will satisfy the
18 balance of the agreed-upon forfeiture. It's made out to US
19 Marshal Services, and I'm providing that to the government.

20 THE COURT: Okay. That's fine with me. I'm not sure
21 that's the best way to get the check handed off, but you've
22 done it on the record.

23 MR. DeMARCO: I prefer to do it this way than to lose
24 it somewhere along the way, your Honor.

25 THE COURT: So Ms. Lonergan, you've got it.

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1 MS. LONERGAN: Yes, your Honor. With reluctance, but
2 yes.

3 THE COURT: Okay.

4 MR. DeMARCO: Finally, your Honor, if your Honor
5 noticed, in my submission, I made a request for this Court to
6 consider allowing -- I mean, this is unorthodox, but to permit
7 Mr. Parrello the opportunity to surrender voluntarily and allow
8 him to be released on bail for a short period of time to attend
9 to his dental and medical needs. I submit he's not a risk of
10 flight, and we proposed a bail package in the amount of a
11 million dollars or \$2 million secured by real property, and the
12 signatures of some financially responsible people will ensure
13 his surrender on any date that's designated by this Court.

14 THE COURT: All right. I'm going to deny that
15 request. The standard for bail pending appeal is different
16 than the standard for bail pending trial or bail pending
17 sentencing. And I don't think Mr. Parrello would meet those
18 standards. So there may be other ways. You might want to talk
19 to the Bureau of Prisons about ways to get those dental issues
20 resolved. I think it's obviously something I take seriously.
21 I guess we had another defendant in this case who had some
22 dental issues but that was bail pending sentencing, which is a
23 different standard than bail pending appeal.

24 MS. LONERGAN: Your Honor, one moment.

25 THE COURT: Yes.

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(Counsel conferring)

MR. DeMARCO: That was a conversation regarding designation, your Honor. We're going to stick with our request that your Honor recommend Danbury.

THE COURT: Okay. I mean, that's fine. I think that for all the reasons you said, it sounds to me like it might be an appropriate place, so I'll make the recommendation, but the Bureau of Prisons may have a different view based on some of the medical issues you mentioned. They may want him closer to a different --

MR. DeMARCO: They may send him to defense or somewhere else, but it would be ideal if he were sent to Danbury, and I think the Court's recommendation would be a step in the right direction.

THE COURT: I'm happy to make that recommendation, as I said.

Anything else?

MR. DeMARCO: No, thank you, your Honor.

THE COURT: All right. Anything from the government?

MS. LONERGAN: No, your Honor. I just want to note, the Court, of course, is free and it's fine to call Adam Johnson, and we agree that the fact that he has not been able to attend religious services is an issue. I believe it should be less of an issue once he's designated. I think first of all, we will very much consider whether we can lift the

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1 separations, and if we can, we will, but regardless, there
2 should be fewer separations because he won't be with his
3 co-defendants, and I think also that the penal institutions as
4 opposed to the jails have more flexibility for things like
5 religious services.

6 THE COURT: Right. I think the goal is, even before
7 he gets designated to his final facility, that he be able to
8 get to go to mass if he wants while he's at the MCC or the MDC.

9 MS. LONERGAN: Yes, your Honor. I hope that it's a
10 problem that will in a short time resolve itself.

11 THE COURT: Okay. All right. Let me end with this.
12 It's been a long day and it's a draining day, and I'm sure for
13 many of you there is a disappointing result. I don't know what
14 people expected when they came in, and it's not really my job
15 to try to make sure people leave happy or satisfied, but it is
16 my job to make sure they leave feeling respected and that they
17 were taken seriously. I did take these letters seriously. I
18 made my decision based on what I explained the different
19 factors to be. But I do think that obviously Mr. Parrello is a
20 person who has touched many lives, and I hope you'll continue
21 to support him while he's serving this sentence. Continue to
22 support his family emotionally. And Mr. Parrello, I hope
23 you'll continue to be a part of the lives of the people who are
24 counting on you, in particular your grandchildren, who really
25 are hurting, I'm sure, and need and want you to be a part of

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1 their lives, so I hope you'll do that, but I hope you'll also
2 reflect on what got you here, because this is a cycle that just
3 can't be tolerated, and it's so harmful to individuals and also
4 to a larger community. This is not just a way of life. This
5 is criminal conduct that has huge, huge consequences on real
6 people. And it's violent. And that is something that the law
7 and legal institutions have firmly condemned, and that's what
8 this sentence, at least in part, was designed to do.

9 So good luck to all of you. Thank you for being here.
10 Mr. Parrello, good luck to you. I wish you the best. Okay?

11 Let me thank the Marshals, let me thank the court
12 reporter. Have a good day.

13 (Adjourned)
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